

From: [Tulis, Dana](#)
To: [Stanton, Larry](#)
Subject: FW: Draft, Draft Authorities, Enforcement & Compliance - WV Spill Site
Date: Tuesday, January 14, 2014 8:22:07 AM

Yeah, for Kim.

From: Stanislaus, Mathy
Sent: Tuesday, January 14, 2014 8:21 AM
To: Jennings, Kim; Tulis, Dana
Subject: Re: Draft, Draft Authorities, Enforcement & Compliance - WV Spill Site
Thanks - very helpful.

From: Jennings, Kim
Sent: Tuesday, January 14, 2014 7:39:23 AM
To: Stanislaus, Mathy; Tulis, Dana
Subject: RE: Draft, Draft Authorities, Enforcement & Compliance - WV Spill Site

We don't get the Tier 2 (EPCRA Section 312) inventory forms/information, the SERCs, LEPCs, and fire departments get that information. We also DO NOT get the Tier I (EPCRA Section 312) form/information. That information also ONLY goes to the SERCs, LEPCs, and fire departments. However, I don't believe any States accept the Tier 1 form, they all require facilities to submit the Tier II form.

I don't know all the specifics about the facility, but with regards to the DA's question, the SERC/State and LEPC/local community should have received a Tier II form with information about the chemicals at the facility and where they were stored. As part of their community contingency plan develop, they should have looked at the risks associated with that facility including the fact that it was located on a waterway near a drinking water intake and planned accordingly. This could have also lead to discussions about steps the facility should take to minimize or eliminate risks to the drinking water supply. This is how EPCRA is intended to work, because the Federal government doesn't have the resources to go to each local community and take these steps. What we should do here is find out whether the LEPC has a plan and considered these risks. If they didn't, we should get an understanding of why they didn't and how we (or the State) can help them do this in the future. This is basically what we are doing under the EO and more specifically under Section 3(a).

Kim

From: Stanislaus, Mathy
Sent: Monday, January 13, 2014 7:17 PM
To: Tulis, Dana; Jennings, Kim
Subject: FW: Draft, Draft Authorities, Enforcement & Compliance - WV Spill Site
We don't get Tier 2 correct? Only the cumulative numbers in Tier 1 correct?

From: Deputy Administrator
Sent: Monday, January 13, 2014 6:46 PM
To: Garvin, Shawn; Stanislaus, Mathy; Stoner, Nancy; Giles-AA, Cynthia; McCabe, Janet; Garbow, Avi
Cc: Vaught, Laura; Reynolds, Thomas; Johnson, Alisha; Early, William; Hodgkiss, Kathy; Capacasa, Jon; Isales, Lydia
Subject: RE: Draft, Draft Authorities, Enforcement & Compliance - WV Spill Site
All:

Shouldn't we be asking a different set of questions first?

What processes under federal programs delivers or develops the information that would be necessary to be better prepared and to take actions ahead of the problem?

Then what legal authority to make things happen, then what non-regulatory approaches. So I see several thoughts about getting ahead before the problem (separate from punishment after the fact)

1) The “Tier II” forms for storage over 10,000 lbs (BTW about 1,200 gallons of water equals 10,000 lbs) we received a copy as did the state. Given location upstream, some thinking could have occurred

2) Source Water Protection Plans done (under SDWA) in the past likely identified this site as an issue being a little over a mile from the intake for drinking water.

Here is where we can lean into the need for improved source water protection action and proactive planning with all information. This is in line with the President’s executive Order and prevention should be EPAs lead thinking – then if there is any law broken here to act.

Bob

Deputy Administrator

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(c) 202-368-8193

From: Garvin, Shawn

Sent: Monday, January 13, 2014 5:32 PM

To: Stanislaus, Mathy; Stoner, Nancy; Giles-AA, Cynthia; McCabe, Janet; Garbow, Avi

Cc: Deputy Administrator; Vaught, Laura; Reynolds, Thomas; Johnson, Alisha; Early, William; Hodgkiss, Kathy; Capacasa, Jon; Isales, Lydia

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[FYI – Here is one change that is still being discussed...](#)

Please use this version substituting the language below in the last part of the CWA311 discussion.

Discussions are ongoing with OGC and OSWER staff about glycerin and whether or not it is subject to SPCC. We hope to have something definitive tomorrow. Thanks, Kathy

Based on information in the EPCRA Tier II report (described below) which EPA received this morning, the facility stores glycerin in several tanks. EPA is working to determine if glycerin is subject to SPCC requirements.

From: Garvin, Shawn

Sent: Monday, January 13, 2014 4:29 PM

To: Stanislaus, Mathy; Stoner, Nancy; Giles-AA, Cynthia; McCabe, Janet; Garbow, Avi

Cc: Deputy Administrator; Vaught, Laura; Reynolds, Thomas; Johnson, Alisha; Early, William; Hodgkiss, Kathy; Capacasa, Jon; Isales, Lydia

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Importance: High

Mathy, Nancy, Cynthia, Janet & Avi – Attached is the information the Regional folks have put together as it relates to authorities at the Freedom Industries facility. To ensure that we haven’t missed anything, I think it would be advantageous for your folks to take a look to see if we missed anything and/or if there are questions with our interpretations. Let me know.

Thank you - Shawn